

PLANNING COMMISSION MINUTES OF JUNE 13, 2005

2005-0341 – Mohammad Rahmani [Applicant] **Pearson Investment Holdings Inc** [Owner]: Application for a Use Permit for an approximately 12,000 sq. ft. community center in an existing 48,422 sq. ft. industrial building. The property is located at **1287 Lawrence Station Road** (near Elko Drive) in an M-S (Industrial and Service) Zoning District. (APN: 110-15-044) (Negative Declaration) JM

Jamie McLeod, Associate Planner, presented the staff report for three uses of a building in an industrial zone: the first use is for standard Research and Development (R & D), the second is for administrative offices, both allowed in this zoning area. The third proposed use is for 35% of site to be used as a community center. Related to the community center use, there are two primary issues: one is the parking and the second is the compatibility of use. The parking calculation is based on the uses and detailed in the report. The results show a deficit in parking but the applicant has indicated potential methods for addressing the deficit. Staff's primary concern is the compatibility of use of a community center in an industrial zoned area. The proposed users are the elderly which are considered sensitive receptors. If approved this would restrict allowable uses for the surrounding areas. The Economic Development Department has expressed their concern with putting uses in the industrial area that might limit the future uses of this area. There is some precedence in the City with community centers in industrial areas, i.e. the Arques Avenue area. There was a similar application within three blocks of the proposed site that was denied by the Planning Commission in November, 2004. The applicant is considering purchasing the site and if it is approved for community center use for a few years only, it may hurt the long-term investment for the owner. Staff has been given clear direction from Council to be conservative on compatibility of use issues. Ms. McLeod responded to several questions previously e-mailed by a Commissioner. The first was clarification that this is a Class B office building with an enclosure on back of site housing an energy transformer and air conditioning units. The second question was regarding Condition of Approval (COA) 10.B., a requirement from the Sunnyvale Municipal Code (SMC) section 19.38.080 requiring sidewalk installation in industrial districts. Ms. McLeod said the requirement refers to a curb level sidewalk along the street for pedestrians and that the sidewalks along side the building do not meet the requirement. The third question was about surrounding uses. Ms. McLeod said that some of the surrounding uses are commercial, but these could change. She added that Highway 237 and Lawrence Expressway are to the north and the west. Chair Moylan asked for clarification of staff's level of concern about restriction of surrounding properties. Gerri Caruso, Principal Planner, answered if a heavy industrial use were proposed adjacent to the community center, there could be restrictions on the industrial project from non-City requirements i.e. insurance difficulties or more expensive emergency plans. Chair Moylan asked if we

anticipated any restrictions to the areas north and west or are we mostly talking about adjacent properties to the south. Ms. Caruso, said the adjacent areas to the south are probably the most affected.

Comm. Simons questioned about neighboring uses in regards to noise. He asked about current noise from industrial uses in the area commenting that older manufacturing noise levels may conflict with new uses coming in, i.e. residential areas encroaching on manufacturing areas. Comm. Simons asked if there were any noise issues that may conflict with new uses coming into the neighborhood. Ms. McLeod said the current surrounding uses do not present noise problems, but this can change, adding that residential sound level requirements are stricter than industrial.

Comm. Klein asked for more information about COA 15.A. regarding an existing underground fire pit. Ms. McLeod verified that this is a Department of Public Works requirement added during the preliminary review of the project and may refer to a picnic area. Comm. Klein's concern was whether it had previously been used for something that could be hazardous, i.e. chemicals, and be dangerous to users.

Comm. Sulser asked Joan Borger, Senior Assistant City Attorney, whether this community center use can be equally compared to church uses that have been approved in the area as the applicant made comparison to this. Ms. Borger said no, the issue is about what can be located in an industrial area. Comm. Sulser asked if the Planning Commission has the same discretion on this application as those in the past. Ms. Borger said yes. The community center and religious institutions are not an equal comparison, but that is not relevant to the discussion. Chair Moylan confirmed with Ms. Borger that other religious institutions that have been given approval in the past are irrelevant to this application. Ms. Borger said that whether they are religious is not relevant, but whether they are places of assembly is the relevant comparison.

Chair Moylan opened the Public Hearing.

Jason Klawitter, attorney for the applicant, spoke on behalf of the applicant. In regards to the use issue, what is being proposed is a community center located in industrial zone that already is a mixed use area. On the opposite side of Lawrence Expressway is a large residential area and the proposed project site is on the tip of an MS (Industrial and Service) zone right across the street from a residential zone. The applicant presented slides showing the location relevant to the residential use to show that location is favorable for mixed-use with another slide showing the variety of surrounding uses. The applicant commented that this area would probably not be looked at for heavy industrial because of the mixed uses and the closeness of the residential area. In regards to the parking issue, the applicant stated that the parking requirements can be met and has suggested parking alternatives, adding the applicant was given late notice on the parking

changes. Also, the community center is only 1/3 of the proposed use, the remaining 2/3 will be used as office and R & D. The applicant knows the use issue is the greatest concern. The applicant commented on several points brought up by the Commission, that this community center is not a first for this area as there is the Chinese Cultural Center two blocks away from this proposed site. The second point was that the conditional use could hurt the long-term investment, but 2/3 of the property would already be office and R&D and if the remaining 1/3 had to be converted back it would not hurt the investment factor. The third point was regarding noise commenting that this is not a noisy area as it is not a heavy industrial neighborhood. The applicant commented that the fire pit is definitely not hazardous and its past use was most likely for barbeques. The applicant reassured the Commission that this is not a church and the focus is on being a community center or a humanitarian center. The applicant has carefully looked at the use of property and has tried to design a nice mixed use within the goals of the City. The applicant commented that the Arques Avenue area is a cluster of different centers in the middle of industrial use. Also, there are more parking issues for the nearby Chinese Cultural Center as indicated in the applicant's supplemental filing and feels this location is much more favorable for parking and that it will not harm the future use.

Co Applicant, Dr. Howard Elden spoke on behalf of the project. Dr. Elden introduced himself with explanation of his credentials and experience as a retired physician with 53 years in the medical field and vast experience in establishing many varied projects and centers throughout California serving all kinds of communities available to everyone in the entire community. He has money donated toward funding this project and would like to have the chance to help establish these services in Sunnyvale. Dr. Elden said he hopes the Planning Commission approves this Use Permit so the money can be utilized to set up the community center to serve the community of the lovely City of Sunnyvale.

Chair Moylan asked Dr. Elden who the community is that this community center would serve and what would this center do that other facilities do not do. Dr. Elden said this center would provide educational, youth, senior citizen and vocational services. The money was donated with the stipulation that it must be used in Santa Clara County. Chair Moylan asked if it would be open to everyone in community. Dr. Elden said it would be open to anyone. Also, there will be some vacant offices that other charitable organizations could use.

Mahdi Falahati, a college student, spoke on behalf of youth and in favor of this project. He said that he may not be able to remain in college due to financial reasons and heard about Dr. Elden's plan to open a help center for youth that would aid in job preparation and also provide a place to give back to the community through charity work. He encouraged the Commission to take advantage of this service request and to grant permission for the community center.

Talat Imran, Bay area resident and recent college graduate, spoke in favor of this project. He expressed how lucky he was to have a good support structure as a student and thinks the help center could provide a similar support structure for other students. He would like to help his age group to be better educated and productive members of society and will plan to volunteer in the vocational and charity areas of the help center. He encouraged the Commission to allow this mixed use area and allow the center to operate in Sunnyvale.

Askari Ahsan a retired longtime area resident, spoke in favor of the project. He feels the help center would provide a place for him for social contact and allow him to give back to the community by contributing to the vocational center. The center would give him and other retirees a place to contribute and provide a feeling of fulfillment. He asked the Commission to consider this application favorably.

Ilyas Ahsan spoke in favor of the project. He said the center that Dr. Elden is proposing would be beneficial for him as a middle-aged person and he would like his children to have an organization like this to go to, providing a safe, constructive environment and to help keep them out of trouble. He asked for the Commission's support of this project.

Harriet B. Rowe, Sunnyvale citizen, spoke against this project. She commented that citizen's taxes are put aside for industrial use to bring in property taxes. Also, the Economic Development Department works hard to bring in businesses and the industrial land should not be allowed for non-economic development. The City has just built a \$12 million senior center open to everyone, has vocational training available through NOVA serving the unemployed and youth and has the SNAP program, always looking for volunteers, for helping in the event of a national disaster. She commented on several of the points brought up by the applicant.

Jeff Guinta, architect for the project, spoke about the actual building and how gorgeous it is in almost a park-like setting. The location selected is unique and ideal. He stated that the project is not impacting the industrial and that the actual area being discussed is really two rooms which are a small portion of the site. He hoped the commission would vote in favor of the project.

Attorney Klawitter said he appreciates both the positive and negative comments. He addressed some of the economic aspects i.e. high percentage of vacancy transitioning towards a change, how the center could contribute to the economy through extra patrons for nearby businesses, how the vocational training might possibly contribute to internships or even further office and R & D growth in the area. Also, the location is a transitional site and the community center use is a good transition to the nearby residential area. He expressed his favor of this project.

Comm. Klein stated that Mr. Askari Ahsan mentioned something about "joining the club". Is this a club and if so what are the charter, fees, etc. Attorney Klawitter clarified that it is not a club and it is open to everyone.

Comm. Simons commented that when the Commission has reviewed other community center projects in industrial zones it determined the appropriateness of the use and applied conditional terms on a project over a period of time. Attorney Klawitter said they are hoping for a full use permit, but would work with the City if conditional terms were required. Comm. Simons asked how similar this project is to a bowling alley site converted in Pomona (previous project Dr. Elden was involved in) that had similar mixed uses to this project. Attorney Klawitter said this project has a heavy emphasis on the vocational aspect with the seniors in the area providing additional help for the vocational center. Dr. Elden replied that the Pomona project was different from this project as the proposed project is bigger and different, emphasizing the vocational training and the senior center. Also this center could help some of the local schools next year which could help the school budget of 2006. Comm. Simons clarified that their will be no kindergarten through eighth grade at this site. Dr. Elden confirmed this.

Chair Moylan closed the Public Hearing.

Comm. Babcock moved for Alternative 1. to adopt the Negative Declaration and deny the Use Permit. Comm. Hungerford seconded.

Comm. Babcock commented that she thinks this is a great idea, but cannot make the findings to approve this in an industrial zoning area and does not feel it meets the purposes of the General Plan. She feels it could affect the future growth of the industries around it and the Use Permit goes with the building not the applicant. She thinks this would be a great addition to Sunnyvale, but hopes a location can be found that is not in an industrial zone.

Comm. Hungerford said this is a useful and beneficial project, but it is located in the wrong spot. This is an industrial area with industrial uses going on there. Though there are vacancies, by approving other uses it jeopardizes long-term uses and can affect existing industrial businesses. He cannot support putting this project use in this area. Comm. Hungerford commented that the Arques area is different from this area in that it was zoned industrial moving towards residential and that this area is more of an industrial area that we need to keep industrial area.

Comm. Simons asked staff if we have ever placed a one-time use permit without attaching it permanently to the property. Ms. Caruso said that there is one community center in the Arques Ave. area that has a temporary three-year permit. The Use Permit would not require another center coming in to obtain a separate permit unless the uses were significantly changed. Comm. Simons commented that he agrees with fellow commissioners on some of the issues, but

would prefer to put conditions on this with regards to length of time and how the surrounding uses integrate with the proposed use. Chair Moylan said the conditions include the use permit, valid for a two-year period only. Comm. Simons said he would prefer other conditions and details put on this project. Comm. Simons said he is interested in groups that want to fill a need in the community, but will not be supporting the motion as this site is a challenge.

Comm. Fussell said he will be supporting this motion, though it is a difficult decision, because of the services it could be providing for the community. He agrees with staff that it is the right project in the wrong place and it would be good if we could continue to look for an alternate location.

Chair Moylan said he opposes the motion, as the Use Permit needs to meet one of two criteria: one, to help carry out the General Plan for Sunnyvale or, two, it is a beneficial use that does not really hurt anyone. This does not meet the first criteria, but he does believe it meets the second criteria. There is not a demand for Class B office space. It will sit around and do nothing. One of the ways the City is disposing of the Class B offices space is by going from industrial to residential. Ms. Rowe's comment that we already have a senior center, is very valid and encouraged citizens to try out our senior center. We have also approved satellite senior centers and similar community centers across the street from other fire houses. On his site visit this looked more like a community center than an industrial center. This does not mean we have to approve all community centers. He agrees with the parking alternatives, and feels the two-year permit is okay. Chair Moylan said overall he believes this is a beneficial project.

Comm. Babcock commented that she feels this is a beneficial use to community, but believes it is hurting the neighboring industrial sites and that there is a parking deficit.

Final Motion:

Comm. Babcock made a motion on Item 2005-0341 for Alternative 1, to adopt the Negative Declaration and deny the Use Permit. Comm. Hungerford seconded.

Motion carried, 5-2, Chair Moylan and Comm. Simons dissenting.

Item is appealable to City Council no later than June 28, 2005.